

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

KENNETH LEE GRIFFIN

PLAINTIFF

VS.

CIVIL ACTION NO. 4:12cv96-FKB

UNKNOWN GRUBBS, et al.

DEFENDANTS

OMNIBUS ORDER

Plaintiff, a state inmate, brought this action pursuant to 42 U.S.C. § 1983 alleging that prison officials wrongfully withheld personal property from him, including religious materials. He also alleges that he was denied access to the courts when prison officials failed to transport him to state court to litigate his replevin action for return of the property. The Court has held an omnibus hearing at which the parties consented to jurisdiction of the undersigned.

Plaintiff has requested to dismiss the claims against J. Alexander. Accordingly, this defendant is hereby dismissed.

At the hearing, Plaintiff articulated no personal involvement by Christopher Epps in the incidents at issue, nor any other basis for holding him liable. There is no respondeat superior liability under § 1983. *Monnell v. Dep't of Soc. Servs.*, 436 U.S. 658, 691 (1978). Accordingly, Defendant Epps is hereby dismissed from this action.

Summons were issued for defendants Major Grubbs, Willie Booker, Sgt. Jackson, and Major Mize to be served at East Mississippi Correctional Institution (EMCF). On August 9, 2012, returns were filed unexecuted for Defendants Grubbs, Booker, and Mize with notations that these individuals are no longer employed at EMCF. Since that date, Plaintiff has failed to provide any further information as to where these defendants can be

served. Accordingly, it is hereby ordered that Plaintiff show cause, in writing, within 14 days of entry of this order, as to why these individuals should not be dismissed pursuant to Fed. R. Civ. Proc. 4(m).

The U.S. Marshal has filed a return for Defendant Jackson stating that he was served by delivering a copy of the complaint and summons to "D. Smith" at EMCF. However, Jackson has not appeared in this action, and there is no indication that D. Smith is authorized by appointment or law to receive service of process for Jackson. For this reason, the Court concludes that this defendant should be dismissed unless Plaintiff can provide the Court with additional identifying information, such as his first name, so that he can be served personally or otherwise in accordance with Fed. R. Civ. Proc. 4(e). Plaintiff is directed to provide this information within 14 days of entry of this order; should Plaintiff fail to do so, Defendant Jackson will be dismissed without further notice.

Plaintiff is granted 14 days from entry of this order in which to substitute named defendants for the John Doe defendants. Otherwise, the John Doe defendants will be dismissed.

SO ORDERED this the 30th of April, 2013.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE